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| SCHWEGMAN, LUNDBERG & WOESSNER/WMS GAMING P.O. BOX 2938 MINNEAPOLIS, MN 55402 | | | EXAMINER D AGOSTINO, PAUL ANTHONY | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/658,975

Applicant(s)

ANDERSON ET AL.

Examiner

Paul A. D'Agostino

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 12/20/2007.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

This responds to applicant's Request for Continued Examination filed 12/20/2007. Claims 1 and 6 have been amended. Claims 1-18 are pending in this application.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5-8, 10-12, and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,701,511 to Smith (Smith) of record in view of U.S. Patent No. 6,302,790 to Brossard (Brossard).

In Reference to Claims 1, 6, 10 and 15

Smith discloses a system comprising:

a computing machine (Fig. 1 "personal computer" 10) configured to conduct a wagering game and a method (Fig. 7 and 8) (system and method perform this function/step; See also, "workstation coupled to a local area network or wide area network" Col. 4 Lines 42-43 wherein wagering games can be played on-line), the computing machine comprising:

a memory structure (Fig. 2 "memory" 21) for storing an audio file {storing an audio file} associated with the wagering game (system and method perform this function/step; "data stored on a CD-ROM to be input to data bus 13 and thereby loaded into memory 21 for access by CPU 23" ... "sound recorded on a CD-ROM" Col. 5 Lines 1-7 and "The present invention is directed to a technique for using audio data that has been digitized and recorded on a CD-ROM." Col. 5 Lines 29-31), the audio file (Fig. 4 "audio data" 52 and Fig. 5 58) including a marker {a plurality of markers} (Fig. 4 "timing mark ticks" 54 and Fig. 5 74) and an audio sequence {a plurality of audio sequences interlaced between the markers}(Fig. 4 "tracks" 50 and Fig. 5 72); and

a controller (Fig. 2 "CPU" 23) operative to play the audio file {playing the audio file}(intended use, system performs this function/step), including playing the sequence {audio file, successively playing the audio sequences} and initiating a wagering game-related event {initiating game-related events} (Fig. 5 "TMSF & CMD A) in response to detecting the {respective} marker {markers}(Col. 6 Lines 66-67 and Col. 7 Lines 1-42), the event {events} being pre-associated with the marker {pre-associated with the respective audio sequences} (Figs. 5 and 6 and "a plurality of timing and command pairs" Col. 7 Line 3).

However, Smith does not explicitly disclose a gaming machine configured to conduct a wagering game and of storing audio files in a memory structure..

Brossard teaches of a gaming machine and method with audio output (Fig. 4A) and storing audio files in a memory structure ("in order to output or reproduce audio, visual, or audio-visual works which may be, e.g. stored in memory 512" Col. 3 Lines "3-

65) in order to increase the game entertainment value and thus revenue potential for game operators (Col. 1 Lines 44-45).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the gaming machine, method, and storage in memory of audio files as taught by Brossard into the teachings of Smith in order to increase the game entertainment value and thus revenue potential for game operators.

In Reference to Claims 2, 7, 11, and 16

Smith discloses a computing machine and method wherein the memory structure includes an association table having the marker and the event associated with the marker (Figs. 5 and 6), the controller referring to the association table to identify the event to be initiated in response to detecting the marker ("and since the two match, the CPU 23 will execute a command A in block 74". Col. 7 Lines 10-11).

In Reference to Claims 3, 8, 12, and 17

Smith discloses a computing machine and method wherein the event is an animation ("bouncing ball" Col. 7 Lines 31-42).

In Reference to Claims 5 and 14

Smith discloses a computing machine and method wherein the audio file is formatted as a wave (.wav) file ("a wave file" Col. 5 Line 17), the marker being an audio

cue point embedded within the wave file ("scheme embeds timing mark ticks 54 in the audio data in a track 50" Col. 6 Lines 17-18).

3. Claims 4, 9, 13, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,701,511 to Smith (Smith) of record in view of U.S. Patent No. 6,302,790 to Brossard (Brossard) and further in view of U.S. Patent No. 5,588,096 to Sato et al. (Sato).

Smith, as modified by Brossard, discloses a system substantially equivalent to applicant's claimed invention. However, Smith fails to teach wherein the event includes an animation sequence involving movements of a character's mouth.

Sato teaches of an event including an animation sequence involving movements of a character's mouth (Fig. 9, 12-17, and 21 and of object display devices of "a person's face which is created and recorded beforehand" Col. 1 Lines 11-13) in order to change the image of an object without performing complicated key operations (Col. 1 Lines 30-34).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the face object as taught by Sato into the teachings of Smith, as modified by Brossard, in order to change the image of an object without performing complicated key operations.

Response to Arguments

4. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection. Smith does not explicitly disclose a gaming machine configured to conduct a wagering game and of storing audio files in a memory structure.

Brossard teaches of a gaming machine and method with audio output (Fig. 4A) and storing audio files in a memory structure ("in order to output or reproduce audio, visual, or audio-visual works which may be, e.g. stored in memory 512" Col. 3 Lines "3-65) in order to increase the game entertainment value and thus revenue potential for game operators (Col. 1 Lines 44-45).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the gaming machine, method, and storage in memory of audio files as taught by Brossard into the teachings of Smith in order to increase the game entertainment value and thus revenue potential for game operators.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is included in the Notice of References Cited.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. D'Agostino whose telephone number is (571) 270-1992. The examiner can be reached on Monday - Friday, 7:30 a.m. - 5:00 p.m..

7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hotaling can be reached on (571) 272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PAD

Paul A. D'Agostino
Examiner
Art Unit 3714


JOHN M. HOTALING, II
PRIMARY EXAMINER